

5. Do you know of any cases where the councils have compelled the removal of fences in the manner provided by section 162 of the act respecting Snow Fences, R. S. O., chapter 240?

1. No, but in appointing the applicant or any other person to the office the council should consider the competency of the person to perform the duties, and pay him such salary as they consider their proper performance reasonably worth.

2. No.

3. The council may appoint to any office under its jurisdiction any person who makes application therefor, even if he states in his application the amount of the salary he expects to receive, but it should exercise its discretion both as to the competency of the person appointed and the salary to be paid him. Sub-section 2 of section 320 of The Consolidated Municipal Act, 1903, prohibits the council from calling for tenders or seeking applicants for any municipal office, with a view to appointing the applicant who offers to perform its duties for the smallest salary, regardless of his qualification.

5. We are not aware of any particular case where this has been done, but the Act clearly gives councils the right to do so under the circumstances, and upon the terms and conditions mentioned in section 2.

Non-Resident Cannot be School Trustee—Assessor Cannot be Trustee of Union Section.

148—P. A. C.—1. Is a ratepayer of a union school section, (not residing within the section) eligible for the position of public school trustee?

2. Can an assessor act as a trustee of a union school section?

1. No. Sub-section 2 of section 10 of The Public Schools Act, 1901, provides that "the persons qualified to be elected trustees shall be such persons as are British subjects and RESIDENT ratepayers or farmers' sons, being residents within the meaning of The Municipal Act, of the full age of twenty-one years, not disqualified under this Act."

2. The statute does not specifically prohibit an assessor of either of the municipalities in which the union school section is located from acting as a trustee thereof, but we are of opinion that he cannot legally fill the offices of trustee of the union school section and assessor at the same time, for the reason that the two offices are incompatible. As assessor, it may become his duty under section 54 of the Act to equalize the assessment of the union school section, and in doing so his duty as assessor would clash with his interest as a trustee of the section.

Treasurer of One Township Cannot be Councillor of Another

149—CLERK.—A, living in municipality B, is treasurer of municipality C. Does the law prevent A from being a councillor in municipality B?

Yes. Sub-section 1 of section 80 of The Consolidated Municipal Act, 1903, provides that "no assessor, collector, TREASURER or clerk of ANY municipality, etc., shall be qualified to be a member of the council of ANY municipal corporation."

Customs Officer May be Mayor or Alderman of Town.

150—R. B.—Is a customs officer disqualified from holding office of mayor or alderman of a town? I am told the Customs Act disqualifies him.

A customs officer is a "person in the civil service of the Crown," and is exempt from being elected a member of the council of any municipal corporation. But if he chooses to be a candidate for and is elected a member of a municipal corporation, there is no law which disqualifies him.

Town Solicitor Can be Member of School Board?

151—E. J. S.—1. Can the solicitor of the town legally hold seat on the public or high school board of the municipality?

Yes.

Collection of Taxes on Lands Nonassessed.

152—E. P. P.—What means would we have to collect taxes on property left off the assessment roll?

Section 166 of The Assessment Act provides that, "if, at the yearly settlement to be made on the first day of May, it appears to the treasurer that any land liable to assessment has not been assessed, he shall report the same to the clerk of the municipality. Thereupon, or if it comes to the knowledge of the clerk in any other manner that such land has not been assessed, the clerk shall, under the direction of the council, enter such land on the collector's roll next prepared by him thereafter, etc." The land is to be valued as in the latter part of this section mentioned.

Council of Village in Districts Cannot License Peddlars.

153—F. D. S.—Can the council of an incorporated village in Muskoka pass a by-law charging peddler's licenses?

No, unless provided by special Act. Sub-section 14 of section 583 of The Consolidated Municipal Act, 1903, applies only to counties, towns and cities, and section 32 of chapter 225, R. S. O., 1897, does not make the provisions of subsection 14 of section 583 of The Consolidated Municipal Act, 1903, applicable to incorporated villages in the territorial districts of Ontario.

Powers of Police Trustees.

154—J. A. C.—1. At police trustee meeting, the first one after election, and after declarations have been filled, can two trustees legally put themselves into office and transact other business, the other trustee being absent through sickness?

2. Have police trustees in police village power to pass a by-law to impose license on cigarette dealers?

1. The Act relating to police trustees is silent as to the number of trustees required to be present in order to transact business. The Common Law rule therefore applies, and it follows that two of the trustees may act in the absence of the third trustee, but all the trustees are entitled to notice of every meeting.

2. Yes. Sub-section 1 of section 746b of the Act provides that police trustees may pass by-laws applicable only in the police village for any of the purposes mentioned in paragraph 28 of section 583 of the Act. A reference to paragraph 28 of section 583 will show that it makes provision for the licensing and regulating of cigarette dealers.

Powers of Police Trustees.

155—W. C.—1. Have the police trustees power to pass by-law in the village to prohibit the sale of cigarettes?

2. Can we pass this by-law ourselves?

3. Can we grant license for the sale of those things?

4. Can we collect the license fee?

5. Have police trustees power to pass by-laws in the village?

6. How far does this power go?

7. At the first meeting of the board of trustees there were only two present. Can they go on with the business and elect each into office?

8. Can the council pass by-laws to compel each one to keep snow off the sidewalks?

9. If the trustees asked the township council to strike 1 per cent. levy can the council be petitioned by the ratepayers not to strike the rate. Can they stop it. The law gives us power to go as high as one per cent?

1, 2, 3 and 4. Yes. See sub-section 1 of section 746b of The Consolidated Municipal Act, 1903, and our answer to question number 154 in this issue.

5. Yes, to the extent of the authority conferred on them by the above Act.